

ESTTA Tracking number: **ESTTA333702**

Filing date: **02/23/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Bowtie, Inc.
Granted to Date of previous extension	02/24/2010
Address	3 Burroughs Irvine, CA 92618-2804 UNITED STATES
Attorney information	Alexander S. Lazouski Rader Fishman & Grauer PLLC 39533 Woodward Avenue, Suite 140 Bloomfield Hills, MI 48304 UNITED STATES interpartesparalegals@raderfishman.com Phone: 248-593-3309

Applicant Information

Application No	77760166	Publication date	10/27/2009
Opposition Filing Date	02/23/2010	Opposition Period Ends	02/24/2010
Applicant	Van Yorke, Yonine 2253 S. Kelton Avenue Los Angeles, CA 90064 UNITED STATES		

Goods/Services Affected by Opposition

Class 018. All goods and services in the class are opposed, namely: collars for dogs and cats
--

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1997451	Application Date	07/28/1994
Registration Date	08/27/1996	Foreign Priority Date	NONE
Word Mark	BOWTIE		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 1995/06/00 First Use In Commerce: 1995/06/00 publication of books

U.S. Registration No.	2789520	Application Date	03/29/2002
Registration Date	12/02/2003	Foreign Priority Date	NONE

Word Mark	BOWTIE
-----------	--------

Design Mark	
-------------	--

Description of Mark	NONE
---------------------	------

Goods/Services	Class 041. First use: First Use: 2001/07/15 First Use In Commerce: 2001/07/15 PUBLICATION SERVICES, IN PRINT [AND ON-LINE,] OF BOOKS, PERIODICALS, [DIRECTORIES, CALENDARS,] MAGAZINES [, DAILY PLANNERS, BROCHURES, PAMPHLETS AND POSTERS]
----------------	---

U.S. Registration No.	3353481	Application Date	06/14/2005
Registration Date	12/11/2007	Foreign Priority Date	NONE

Word Mark	BOWTIE
-----------	--------


Design Mark	
-------------	---

Description of Mark	NONE
---------------------	------


Goods/Services	<p>Class 016. First use: First Use: 1996/00/00 First Use In Commerce: 1996/00/00 Magazines, books, directories and periodicals, in the fields of animals, pets, plants, aquatic, agriculture, horticulture, terrarium and vivarium environments, vehicles, travel, current events, trade and consumer news and features of general interest to animal and pet owners</p> <p>Class 035. First use: First Use: 1996/00/00 First Use In Commerce: 1996/00/00 Distributorship services in the field of magazines, newsletters, directories, journals, compendiums, greeting cards, books, periodicals, video tapes, CDs, DVDs and other electronic media; merchandising services, namely, arranging, organizing, reordering, stocking and promoting the merchandise and displays of others; market research and analysis services; advertising agency services; media placement of advertising for others; direct mail advertising to consumers; mailing list preparation; database management; business consulting services; consulting services in the field of database marketing</p> <p>Class 041. First use: First Use: 1996/00/00 First Use In Commerce: 1996/00/00</p>
----------------	---

	<p>Computer services, namely, providing online magazines, articles, and stories in the fields of animals, pets, plants, aquatic, agriculture, horticulture, terrarium and vivarium environments, vehicles, travel and features of general interest to animal and pet owners; providing online information and news in the fields of animals and pets relating to training and educational exhibitions; publishing of print media and electronic publications, namely magazines, books, journals, newsletters, directories and periodicals; organizing and conducting entertainment shows, contests and entertainment exhibitions in the fields of animals and pets</p> <p>Class 042. First use: First Use: 1996/00/00 First Use In Commerce: 1996/00/00 Intellectual property licensing services; database development services</p> <p>Class 044. First use: First Use: 2000/00/00 First Use In Commerce: 2000/00/00 Providing online information and news in the fields of animals and pets relating to selection, care, breeding, grooming, feeding and nutrition; providing online information and news relating to agriculture, horticulture, creating and maintaining terrarium and vivarium environments</p>
--	--

U.S. Registration No.	2254864	Application Date	08/13/1997
Registration Date	06/22/1999	Foreign Priority Date	NONE
Word Mark	BOWTIE PRESS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 1995/09/00 First Use In Commerce: 1995/09/00 publication of books [, magazines and other periodicals]		

U.S. Registration No.	3326299	Application Date	06/14/2005
Registration Date	10/30/2007	Foreign Priority Date	NONE
Word Mark	BOWTIE		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 016. First use: First Use: 1996/00/00 First Use In Commerce: 1996/00/00 Magazines, books, directories and periodicals, in the field of animals, pets, plants, aquatic, agriculture, horticulture, terrarium and vivarium environments, vehicles, travel, current events, trade and consumer news and features of general interest to animal and pet owners</p> <p>Class 035. First use: First Use: 1996/00/00 First Use In Commerce: 1996/00/00 Distributorship services in the field of magazines, newsletters, directories, journals, compendiums, greeting cards, books, periodicals, video tapes, CDs, DVDs and other electronic media; merchandising services, namely, arranging, organizing, reordering, stocking and promoting the merchandise and displays of others; market research and analysis services; advertising agency services; media placement of advertising for others; direct mail to consumer media</p>		

	<p>services; mailing list preparation; database management; business consulting services; consulting services in the field of database marketing</p> <p>Class 041. First use: First Use: 1996/00/00 First Use In Commerce: 1996/00/00</p> <p>Computer services, namely, providing online magazines, articles, news and stories in the field of animals, pets, plants, aquatic, agriculture, horticulture, terrarium and vivarium environments, vehicles, travel and features of general interest to animal and pet owners; providing online information in the field of animals and pets relating to training and exhibitions; publishing of print media and electronic publications, namely magazines, books, directories and periodicals; organizing, sponsoring and conducting shows, contests and exhibitions in the field of animals and pets</p> <p>Class 042. First use: First Use: 1996/00/00 First Use In Commerce: 1996/00/00</p> <p>database development services</p> <p>Class 044. First use: First Use: 2000/00/00 First Use In Commerce: 2000/00/00</p> <p>Providing online information in the field of animals and pets relating to breeding, selection, care, grooming, feeding and nutrition; providing online information relating to agriculture, horticulture, terrarium and vivarium environments</p>
--	--

U.S. Registration No.	3373915	Application Date	06/14/2005
Registration Date	01/22/2008	Foreign Priority Date	NONE
Word Mark	BOWTIE		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 016. First use: First Use: 1996/00/00 First Use In Commerce: 1996/00/00</p> <p>Magazines, books, directories and periodicals, in the fields of animals, pets, plants, aquatic, agriculture, horticulture, terrarium and vivarium environments, vehicles, travel, current events, trade and consumer news and features of general interest to animal and pet owners</p> <p>Class 035. First use: First Use: 1996/00/00 First Use In Commerce: 1996/00/00</p> <p>Distributorship services in the field of magazines, newsletters, directories, journals, compendiums, greeting cards, books, periodicals, video tapes, CDs, DVDs and other electronic media; merchandising services, namely, arranging, organizing, reordering, stocking and promoting the merchandise and displays of others; market research and analysis services; advertising agency services; media placement of advertising for others; direct mail advertising to consumers; mailing list preparation; database management; business consulting services; consulting services in the field of database marketing</p> <p>Class 041. First use: First Use: 1996/00/00 First Use In Commerce: 1996/00/00</p> <p>Computer services, namely, providing online magazines, articles, and stories in the fields of animals, pets, plants, aquatic, agriculture, horticulture, terrarium and vivarium environments, vehicles, travel and features of general interest to animal and pet owners; providing online information and news in the field of animals</p>		

	<p>and pets relating to training and educational exhibitions; publishing of print media and electronic publications, namely, magazines, books, directories and periodicals; organizing and conducting entertainment shows, contests and entertainment exhibitions in the field of animals and pets</p> <p>Class 042. First use: First Use: 1996/00/00 First Use In Commerce: 1996/00/00 Database development services</p> <p>Class 044. First use: First Use: 2000/00/00 First Use In Commerce: 2000/00/00 Providing online information and news in the field of animals and pets relating to selection, care, breeding, grooming, feeding and nutrition; providing online information and news relating to agriculture, horticulture, creating and maintaining terrarium and vivarium environments</p>
--	---

Attachments	<p>76388857#TMSN.gif (1 page)(bytes) 78649985#TMSN.gif (1 page)(bytes) 78650084#TMSN.jpeg (1 page)(bytes) 78650043#TMSN.jpeg (1 page)(bytes) BOW TIE & TAILS.pdf (7 pages)(2596994 bytes)</p>
-------------	--

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Alexander S. Lazouski/
Name	Alexander S. Lazouski
Date	02/23/2010

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

BOWTIE, INC.)	
)	
Opposer,)	
)	Opposition No. _____
v.)	Application Serial No. 77/760,166
)	Mark: BOW TIE & TAILS
YONINE VAN YORKE,)	
)	
Applicant.)	
_____)	

NOTICE OF OPPOSITION

Opposer, BowTie, Inc., a California corporation, at 2401 Beverly Boulevard, Los Angeles, California 90057 (“Opposer”), believes that it will be damaged by registration of the mark of Application Serial No. 77/760,166, by Yonine Van Yorke, Applicant herein (“Applicant”), and hereby opposes the same on the grounds (1) that the mark is likely to cause confusion, or to cause mistake or to deceive with respect to (a) Opposer’s prior use of marks formed or dominated by “BOWTIE” (collectively “Opposer’s BOWTIE Marks”), (b) Opposer’s registrations for such marks (collectively “Opposer’s BOWTIE Registrations”); (2) that registration of the mark of Application Serial No. 77/760,166 will dilute the distinctiveness of Opposer’s BOWTIE Marks by tarnishing the marks and by blurring the distinctiveness of the marks.

As grounds for the opposition, Opposer states as follows:

1. Opposer is extensively engaged in the business of providing a broad range of animal-related books and magazines, publishing services, distributorship services in the field of animal and pet-related products, online media and information services in the field of animals and pets, providing an online marketplace for animal and pet-related products and services, and marketing and consulting services in the field of animal and pet-related products and services (“Opposer’s Goods and Services”).

2. In connection with Opposer's Goods and Services, Opposer has used Opposer's BOWTIE Marks. Opposer has continuously used Opposer's BOWTIE Marks in commerce since at least as early as 1995.

3. As a result of the quality of Opposer's Goods and Services and the widespread promotion thereof under Opposer's BOWTIE Marks, Opposer's Goods and Services have met with substantial commercial success and customer recognition. Opposer's BOWTIE Marks have become symbols of Opposer, its quality services, and its goodwill. In addition, Opposer's BOWTIE Marks are famous.

4. In recognition of the valuable rights in and to Opposer's BOWTIE Marks, the Patent and Trademark Office granted Opposer's BOWTIE Registrations, as follows:

- a. Registration No. 1,997,451 for the mark BOWTIE for "*publication of books*" in International Class 41;
- b. Registration No. 2,789,520 for the mark BOWTIE for "*publication services, in print, of books, periodicals and magazines*" in International Class 41;
- c. Registration No. 3,353,481 for the mark BOWTIE for "*magazines, books, directories and periodicals, in the fields of animals, pets, plants, aquatic, agriculture, horticulture, terrarium and vivarium environments, vehicles, travel, current events, trade and consumer news and features of general interest to animal and pet owners*" in International Class 16, "*distributorship services in the field of magazines, newsletters, directories, journals, compendiums, greeting cards, books, periodicals, video tapes, CDs, DVDs and other electronic media; merchandising services, namely, arranging, organizing, reordering, stocking and promoting the merchandise and displays of others; market research and analysis services; advertising agency services; media placement of advertising for others; direct mail advertising to consumers; mailing list preparation; database management; business consulting*

services; consulting services in the field of database marketing” in International Class 35, *“computer services, namely, providing online magazines, articles, and stories in the fields of animals, pets, plants, aquatic, agriculture, horticulture, terrarium and vivarium environments, vehicles, travel and features of general interest to animal and pet owners; providing online information and news in the fields of animals and pets relating to training and educational exhibitions; publishing of print media and electronic publications, namely magazines, books, journals, newsletters, directories and periodicals; organizing and conducting entertainment shows, contests and entertainment exhibitions in the fields of animals and pets”* in International Class 41, *“intellectual property licensing services; database development services”* in International Class 42, and *“providing online information and news in the fields of animals and pets relating to selection, care, breeding, grooming, feeding and nutrition; providing online information and news relating to agriculture, horticulture, creating and maintaining terrarium and vivarium environments”* in International Class 44;

- d. Registration No. 2,254,864 for the mark BOWTIE PRESS for *“publication of books”* in International Class 41;
- e. Registration No. 3,326,299 for the mark BOWTIE & DESIGN for *“magazines, books, directories and periodicals, in the field of animals, pets, plants, aquatic, agriculture, horticulture, terrarium and vivarium environments, vehicles, travel, current events, trade and consumer news and features of general interest to animal and pet owners”* in International Class 16, *“distributorship services in the field of magazines, newsletters, directories, journals, compendiums, greeting cards, books, periodicals, video tapes, CDs, DVDs and other electronic media; merchandising services, namely, arranging, organizing, reordering, stocking and promoting the*

merchandise and displays of others; market research and analysis services; advertising agency services; media placement of advertising for others; direct mail to consumer media services; mailing list preparation; database management; business consulting services; consulting services in the field of database marketing” in International Class 35, “*computer services, namely, providing online magazines, articles, news and stories in the field of animals, pets, plants, aquatic, agriculture, horticulture, terrarium and vivarium environments, vehicles, travel and features of general interest to animal and pet owners; providing online information in the field of animals and pets relating to training and exhibitions; publishing of print media and electronic publications, namely magazines, books, directories and periodicals; organizing, sponsoring and conducting shows, contests and exhibitions in the field of animals and pets*” in International Class 41, “*database development services*” in International Class 42, and “*providing online information in the field of animals and pets relating to breeding, selection, care, grooming, feeding and nutrition; providing online information relating to agriculture, horticulture, terrarium and vivarium environments*” in International Class 44; and

- f. Registration No. 3,373,915 for the mark BOWTIE & DESIGN for “*magazines, books, directories and periodicals, in the field of animals, pets, plants, aquatic, agriculture, horticulture, terrarium and vivarium environments, vehicles, travel, current events, trade and consumer news and features of general interest to animal and pet owners*” in International Class 16, “*distributorship services in the field of magazines, newsletters, directories, journals, compendiums, greeting cards, books, periodicals, video tapes, CDs, DVDs and other electronic media; merchandising services, namely, arranging, organizing, reordering, stocking and promoting the merchandise and displays of others; market research and analysis services;*

advertising agency services; media placement of advertising for others; direct mail advertising to consumers; mailing list preparation; database management; business consulting services; consulting services in the field of database marketing” in International Class 35, “computer services, namely, providing online magazines, articles, and stories in the fields of animals, pets, plants, aquatic, agriculture, horticulture, terrarium and vivarium environments, vehicles, travel and features of general interest to animal and pet owners; providing online information and news in the field of animals and pets relating to training and educational exhibitions; publishing of print media and electronic publications, namely, magazines, books, directories and periodicals; organizing and conducting entertainment shows, contests and entertainment exhibitions in the field of animals and pets” in International Class 41, “database development services” in International Class 42, and “providing online information and news in the field of animals and pets relating to selection, care, breeding, grooming, feeding and nutrition; providing online information and news relating to agriculture, horticulture, creating and maintaining terrarium and vivarium environments” in International Class 44.

5. Opposer’s BOWTIE Registrations all rest on the Principal Register and therefore constitute prima facie evidence of the validity of the marks, the registrations therefor, Opposer’s ownership of the marks and Opposer’s exclusive right to use the marks in commerce. Moreover, Registration Nos. 2,254,864 and 2,789,520 have achieved incontestable status and thus constitute conclusive evidence of the validity of the marks, the registrations therefor, Opposer’s ownership of the marks and Opposer’s exclusive right to use the marks in commerce for the services specified in the registrations.

6. Prior to the filing date of Application Serial No. 77/760,166, Opposer used Opposer’s BOWTIE Marks in commerce, and all of Opposer’s BOWTIE Registrations issued.

7. On information and belief, Applicant, Yonine Van Yorke, is an individual with an address of 2253 S. Kelton Avenue, Los Angeles, California 90064.

8. Notwithstanding Opposer's prior use of Opposer's BOWTIE Marks, and Opposer's BOWTIE Registrations, on June 15, 2009, Applicant filed Application Serial No. 77/760,166 for the mark BOW TIE & TAILS.

9. Application Serial No. 77/760,166 recites "*collars for dogs and cats*" in International Class 18.

10. The mark of Application Serial No. 77/760,166 is substantially similar to Opposer's BOWTIE Marks. Further, the goods covered by Application Serial No. 77/760,166 are similar and related to Opposer's Goods and Services, would be marketed and sold to the same class of customers, and would be marketed and sold through the same channels of trade.

11. In view thereof, purchasers are likely to mistakenly assume that the goods covered by Application Serial No. 77/760,166 originate from, are sponsored by or are in some way associated with Opposer. The mark of Application Serial No. 77/760,166 so resembles Opposer's BOWTIE Marks as to be likely to cause confusion, or to cause mistake or to deceive. Accordingly, Opposer is likely to be damaged by registration of the mark of Application Serial No. 77/760,166.

12. Moreover, Opposer's BOWTIE Marks are famous. Registration of the mark of Application Serial No. 77/760,166 will dilute the distinctiveness of Opposer's BOWTIE Marks by tarnishing the marks and by blurring the distinctiveness of the marks.

WHEREFORE, Opposer prays that Application Serial No. 77/760,166 be refused registration, that no registration be issued thereon to Applicant and that this Opposition be sustained in favor of Opposer.

A filing fee for the Notice of Opposition in an amount of \$300 should be charged to Deposit Account No. 18-0013. Any additional fees required should be charged to the same account.

Dated: February 23, 2010

By: 


Michelle L. Visser
Alexander S. Lazouski
RADER FISHMAN & GRAUER PLLC
Attorneys for Opposer
39533 Woodward Avenue, Suite 140
Bloomfield Hills, Michigan 48304
Telephone: (248) 593-3309
Facsimile: (248) 594-0610

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing *Notice of Opposition* upon Applicant by causing a true and correct copy thereof to be sent to:

Robert Berliner
Berliner & Associates
555 West 5th Street
Floor 31
Los Angeles, CA 90013-1018

Date: February 23, 2010


Alexander S. Lazouski